IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NOS.1395 OF 2003 TO 1397 OF 2003

BHOGAVATI SHANKAR SAKHAR
KARKHANA LTD. ... PETITIONERS.
VS.
1. M/S. YASH BOTTLING
COMPANY AND ORS. ... RESPONDENTS.
MR. GANESH GOLE FOR RESPONDENT NOS. 2 & 3
MRS. DESHMUKH APP FOR THE- STATE.

Coram : S.K.Shah, J.
Date : July 18, 2006.
P.C.

1. These three writ petitions arised out of the common Order passed by the Additional Sessions Judge, Kolhapur, in three revision applications. The learned Additional Sessions Judge allowed all the three revision applications and the revision petitioner were discharged by quashing the Order of issue of process, passed by the learned Magistrate, against them.

2. The said Order was passed on the ground that there was no allegation made in the complaint about involvement of the revision petitioners- the original accused No. 1(a) and 1(b), being the partners of the firm.

3. The learned Counsel for the Petitioners submits that there was an agreement between the parties and pursuant to the agreement, the Petitioners had supplied the goods and the cheques were issued for the payment of the amounts. Since the agreement was executed by all the partners of the firm, on behalf of the firm, they are liable. The another contention of the learned Counsel for the Petitioners is that the case of the respondents, fall under the provisions of subsection

(2) of Section 141 of the Negotiable Instruments Act. However, I do not find any merit in these submissions made on behalf of the Petitioner. The averments in the petition are about agreement. That agreement is only with regard to supply of the goods. That was not showing that the respondents were incharge of and were responsible to the firm in the conduct of the business as well as the firm, as required under sub-section (1) of Section 141 of the Negotiable Instruments Act.

4. On perusal of the complaint, even there are no allegations to show that the offence about dishonour of the cheques was attributable to the neglect on the part of the respondents, as contemplated under Sub-section (2) of Section 141 of the Negotiable Instruments Act. In absence of any allegation having been made in the complaint, the issue of process was not proper. As such the common Order passed by the learned Additional Sessions Judge was proper and legal.

5. Consequently, I do not find any merit in these three writ petitions. The Writ Petitions are, therefore, dismissed.

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[S.K.Shah , J.]